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HOUSE BILL 1176

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State of Washington

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By Representatives Hankins, Fisher, Murray, Skinner, Romero, G. Chandler, Cooper, Rockefeller, Lovick, DeBolt, Hatfield, Cairnes, Hurst, Armstrong, Conway, Woods, O'Brien, Haigh, Keiser and Wood

Read first time 01/19/2001. Referred to Committee on Transportation.

1 AN ACT Relating to motorist assault upon department of  
2 transportation employees; and adding a new section to chapter 47.04  
3 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 47.04 RCW  
6 to read as follows:

7 (1) For the purposes of this section only, "assault" means an act  
8 by a motorist that results in physical injury to an employee of the  
9 department while engaged in highway construction or maintenance  
10 activities along a roadway right-of-way (fence line to fence line,  
11 landscaped areas) or in the loading and unloading of passenger vehicles  
12 in service of the vessel as a maritime employee not covered under  
13 chapter 51.32 RCW or engaged in those work activities as a Washington  
14 State Ferries terminal employee covered under chapter 51.32 RCW.

15 (2) In recognition of the nature of employment in departmental  
16 highway construction or maintenance activities and by the Washington  
17 State Ferries, this section provides a supplementary program to  
18 reimburse employees of the department for some of their costs

1 attributable to their being the victims of assault by motorists. This  
2 program is limited to the reimbursement provided in this section.

3 (3) An employee is entitled to receive the reimbursement provided  
4 in this section only if the secretary finds that each of the following  
5 has occurred:

6 (a) A motorist has assaulted the employee who is engaged in highway  
7 construction or maintenance along a roadway right-of-way (fence line to  
8 fence line, landscaped areas) or service of the vessel as a maritime  
9 employee or terminal employee engaged in the loading or unloading of  
10 passenger vehicles and as a result the employee has sustained  
11 demonstrated physical injuries that have required the employee to miss  
12 one or more days of work;

13 (b) The assault is not attributable to any extent to the employee's  
14 negligence, misconduct, or failure to comply with any rules or  
15 conditions of employment; and

16 (c) The department of labor and industries has approved the  
17 employee's workers' compensation application under chapter 51.32 RCW,  
18 or for maritime employees the department of transportation risk  
19 management office has approved maintenance and cure benefits under 46  
20 U.S.C. Sec. 688 et seq.

21 (4) The reimbursement authorized under this section is as follows:

22 (a) The employee's accumulated sick leave days will not be reduced  
23 for the workdays missed. The injured worker who qualifies for and  
24 receives assault benefits will also receive full standard benefits  
25 (vacation leave, sick leave, health insurance, etc.) as if uninjured;

26 (b) For an employee covered by chapter 51.32 RCW, for each workday  
27 missed for which the employee is not eligible to receive compensation  
28 under chapter 51.32 RCW, the employee will receive the full amount of  
29 the injured worker's net pay at the time of injury; and

30 (c) In respect to workdays missed for which the employee will  
31 receive or has received compensation under chapter 51.32 RCW, or under  
32 federal maritime law benefits, including the Jones Act, for an employee  
33 deemed a maritime employee assigned to work in service of the vessel or  
34 a nonmaritime terminal employee covered under chapter 51.32 RCW, the  
35 employee will be reimbursed in an amount that, when added to that  
36 compensation, will result in the employee receiving no more than full  
37 net pay (gross pay less mandatory and voluntary deductions) for the  
38 workdays missed.

1 (5) Reimbursement under this section may not last longer than three  
2 hundred sixty-five consecutive days after the date of the injury. No  
3 application for assault benefits is valid nor may a claim be enforced  
4 unless it was made within one year after the day upon which the injury  
5 occurred.

6 (6) The employee is not entitled to the reimbursement provided in  
7 subsection (4) of this section for a workday for which the secretary or  
8 an applicable designee finds that the employee has not diligently  
9 pursued his or her compensation remedies under chapter 51.32 RCW or  
10 federal maritime law, including the Jones Act.

11 (7) The reimbursement may be made only for absences that the  
12 secretary or an applicable designee believes are justified.

13 (8) While the employee is receiving reimbursement under this  
14 section, he or she will continue to be classified as a state employee,  
15 and the reimbursement amount is considered as salary or wages.

16 (9) The department shall make all reimbursement payments required  
17 to be made to employees under this section. The payments are  
18 considered as a salary or wage expense and must be paid by the  
19 department in the same manner and from the same appropriations as other  
20 salary and wage expenses for the department.

21 (10) Nothing in this section precludes the department from  
22 recovering the supplemental payments authorized by this section from  
23 the assaulting motorist, and that recovery is considered exclusive of  
24 recovery under chapter 51.24 RCW.

25 (11) If the legislature revokes the reimbursement authorized under  
26 this section or repeals this section, no affected employee is entitled  
27 after that to receive the reimbursement as a matter of contractual  
28 right.

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